

**Congress of the United States**  
**Washington, DC 20515**

March 23, 2018

The Honorable Alexander Acosta  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

**RE: Definition of "Employer" Under Section 3(5) of ERISA-Association Health Plans  
RIN 1210-AB85**

Dear Secretary Acosta:

We write to you regarding association health plans ("AHP") in the State of Indiana. We applaud the Administration for taking action to expand the benefits of AHPs to more small businesses. My home state of Indiana is fortunate to have a robust AHP market that provides value and choice to a significant number of employees and dependents. While we share the Administration's commitment to expand access for small businesses to AHPs, we encourage the Department take appropriate steps to ensure that new regulations do not adversely impact AHPs that have been successfully operating.

For a number of years, AHPs have offered valuable coverage options for small employers seeking alternatives to costlier products available in the traditional small group market. There are a number of fully-insured and self-funded AHPs successfully operating across Indiana, and their continued success demonstrates the demand among small businesses seeking to provide comprehensive coverage options to their employees. Importantly, these plans satisfy all state and federal benefit requirements, with some offering more generous coverage than required for ACA-compliant plans, while also offering important consumer protections like guaranteed issue and renewal of coverage.

While the Department's proposed rule would make several important changes to expand access to AHPs, the proposal could significantly alter the successful AHP market in Indiana by inhibiting AHPs from treating different employer members as distinct groups for rating purposes. This could threaten the comprehensive benefits currently available through AHPs in Indiana. By removing the ability to set premiums for each member employer based on the experience of their workforce and dependents, AHPs are left with fewer options to create affordable plans that can compete with products on the small group market. This could lead to AHPs reducing the benefits they currently provide, potentially forcing employees and their dependents off plans that are working for them.


The Department can avoid this outcome by modifying the regulation to permit AHPs operating prior to the date when the proposed rule was published in the Federal Register to continue

operating as they have been. We encourage the Department to consider grandfathering these plans and allowing them to set premiums for each of their employer members using the same approaches they have used for many years. A grandfathering approach could result in even more choice for small businesses by allowing them to choose from plans in the traditional small group market, the grandfathered AHP market, and the newly expanded AHP market.

We appreciate the Department's efforts to promote access to AHPs through this rulemaking. By carefully considering the needs of existing plans successfully operating in Indiana and other states, the Department can deliver on the promise of expanded coverage options for small businesses while ensuring that changes to current regulations and guidance do not adversely impact existing plans and the families they cover.

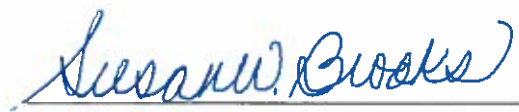
Sincerely,

  
Luke Messer  
Member of Congress

  
Larry Bucshon, M.D.  
Member of Congress

  
Jackie Walorski  
Member of Congress

  
Jim Banks  
Member of Congress

  
Susan W. Brooks  
Member of Congress